

Property rights distribution and entrepreneurial rent-seeking in Romanian forestry: a perspective of private forest owners

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Abstract In the framework of a broader political economics approach, this paper intends to enhance the understanding of the role of rent-seeking practices in the delineation of clear property rights in forestry. The research background is provided by the institutional changes occurring in the Romanian forestry sector as a consequence of the transition period and the accession to the European Union. The entrepreneurial approach to rent-seeking requires clarifications of the perspective under which private forest owners are analysed in order to position this study within ongoing discussions regarding the role of rent-seeking and its social impact. The conceptual framework employed distinguishes between rents resulting from entrepreneurship in conventional production functions and rents resulting from institutional entrepreneurship. A typology of entrepreneurial rent-seeking is developed for further understanding of the effects resulting from changes in the institutional setting of property rights. Using a qualitative approach, in the form of a case study, the research reveals perspectives of Romanian forest owners regarding barriers to production inherent in the current distribution of

rights. Despite the extent of perceived profit-seeking barriers, owners' entrepreneurial rent-seeking actions intended to change property rights in their favour appear limited and constrained. Hence, identified hypotheses regarding the institutional context dependency of entrepreneurial rent-seeking provide the basis for the future empirical identification of the role of institutional entrepreneurship within the forest production system.

Keywords Property rights · Rent-seeking · Entrepreneurship · Excludability · Forestry · Small scale

Research background

Property rights allocation conditions the economic prosperity of a society. In the case of forestry, property rights are often an obstacle to entrepreneurship due to the nature of public and common goods creating externalities, both positive and negative. This has several policy implications which may impede the economic freedom of choice for forest owners. A growing, yet not universal, focus on forest conservation, the integration of forests into climate change as well as rural development policies and the spotlight of forest ecosystems amenities are contemporary challenges prone to influence the traditional socio-economic approaches on how to distribute property rights in forestry. Clear property rights can help internalise forestry externalities (Markandya et al. 2002). Therefore, property rights are considered decisive institutions for the constitution of forestry markets, since they determine marketability and enforcement options for goods and services such as land, timber, recreation or carbon sequestration (Schanz and Blum 1999).

Romania offers a distinctive 'natural experiment' to study changes in the institutional settings of property

This is one in a series of articles dedicated to Prof. Dr. Dr. h.c. Gerhard Oesten on the occasion of his 60th birthday.

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rights, since private property on forestlands is currently undergoing a process of rights restoration after the fall of the communist state. Commencing in 1991, the process of land restitution took a piecemeal approach, which was based on three main restitution laws and has not resulted in a complete restoration of the pre-communist ownership situation.¹

In the case of transition economies, macroeconomic outcomes crucially depend on how property rights are distributed and enforced, thus explaining why some countries perform better than others in the privatisation process (Cheikbossian 2003). In the Romanian case, the forest restitution process started in the absence of a proper formal institutional framework, as a new post-communist forestry code appeared only five years after the first restitution law and specific regulations targeting the management of private forests nine years later (Bouriaud et al. 2005). In the meantime, almost half of the first privatised forest land was affected (120,000 ha), being illegally clear-cut or over-harvested (Nichiforel 2007). Owners' fears vis-à-vis a perceived high uncertainty of their regained property rights discouraged the preservation of forest resources, while the desire to rapidly convert forests into money lead to the creation of black markets for timber (Bouriaud 2005).

As a result, post-communist forest owners have been broadly perceived in a negative way, especially by state foresters, who have been exclusively in charge of the forest management for many years (Irimie and Essmann 2009, p. 99; Lawrence and Szabo 2005). They have been blamed for natural disasters, such as the floods in 2004, when the President, e.g., stated that private owners cannot, as a general rule, be entrusted with the restituted forests (Lawrence and Szabo 2005, p. 309). Nonetheless, there is enough evidence showing that, compared with the early years of the transition period, socio-economic conditions in Romanian society have improved, mainly owing to the private sector that managed to provide economic growth even under difficult circumstances (Tache and Lixandriou 2006, p. 400). With the implementation of the 2005 restitution law, the private forest owners have to manage a larger forest surface under a legislative framework which is in line with EU requirements. Consequently, it is likely that more private forest owners will take the entrepreneurial path under pressure to sustain the economic and financial viability of their forest enterprises.

In this context, the paper presents interesting accounts on how property rights in Romanian private forestry are distributed and in how far profit-making activities are inhibited from a forest owner perspective. Secondly, a perspective is introduced that conceives forest owners as entrepreneurs seeking rents as an alternative solution to assure the long-term financial efficiency of their enterprise. A rent, according to economic understanding, is the receipt of any income that exceeds the opportunity costs of the resource (Tollison 1982, p. 575). The approach taken in this paper assumes that existing barriers to production, as a result of the given structure of property rights, will drive a rational entrepreneur to invest efforts in activities intended to change the current structure of rights in his or her favour. Accordingly, by integrating new assets into the use of the resource, 'excess income' emanates.

Theoretically, activities targeting the appropriation of rents fall under the umbrella of the rent-seeking concept. In its neoclassical interpretation, rent-seeking² applies to situations where governmental intervention in the economy leads to the creation of artificial or contrived rents (Krueger 1974). Typical cases of rents encompass higher rates of return through monopolies, trade protection or politically organised transfers such as subsidies (Tollison 1982, p. 576). Expenditures made to capture or resist the transfer of rents are considered to generate social waste rather than social surplus (Buchanan 1980, p. 4). This classical perspective focuses on estimating the social costs associated with rent-seeking, with relevant scholars following the lead of Tullock (1967).

Empirical data show that classical rent-seeking activities in Romania have expanded during the transition period, "when institutions of restraint were weak and rules governing society and businesses were rewritten wholesale" (Tache and Lixandriou 2006, p. 395). Research in this context more often relates the rent-seeking behaviour in former communist countries to 'oligarchs', 'robber barons' or 'clientele relations' that severely hamper economic efficiency. While such an approach appears appropriate to a certain extent since it explains a 'crude reality', few studies have considered the role of rent-seeking activities in relation to property rights formation, especially in the case of natural resource management (Edwards 2002; Bergland et al. 2002).

The approach used in this article deals with the limits of the classical interpretation of the concept and promotes the separation of rent-seeking activities from their outcome in

¹ In 1948, before nationalisation took place, 23 per cent of Romania's forests were in private ownership, 29 per cent were state-owned and almost half were owned by towns, villages, communities, religious and educational institutions. The Law no. 18/1991 gave back one hectare of forest per individual private owner; Law no. 1/2000 had restitution limits of 10 hectares for individuals and restituted all previously owned forest for towns and communities while the Law no. 247/2005 aims to assure the *restitution in integrum*.

² Bhagwati (1982) attempted to coin directly unproductive profit-seeking activities as the general concept that embraces a wide range of economic activities leading to windfall gains in non-tradable sectors and domestic productive activities; yet the term rent-seeking as introduced by Krueger (1974) received most of the theoretical attention.

terms of social returns.³ Instead, rent-seeking behaviour is considered as a generally important element in property rights allocation and not necessarily as being good or bad for social welfare. In this conceptual understanding, rent-seeking is perceived as the *entrepreneurial discovery of rents, resulting from efforts spent in ongoing market, bureaucratic and political processes, as to influence the allocation of property rights in a continuous path-dependent spontaneous evolution* (Benson 2005, p. 122). Such entrepreneurial approach is not to be confused with political entrepreneurship as conceptualised in Public Choice Theory. This theory of institutional change portrays political entrepreneurs as engaged in politics in order to maximise votes (Sened 1997). The paper at hand, however, considers entrepreneurs with regard to their entrepreneurial rent-seeking activities in political, bureaucratic and/or economic arenas focusing on the allocation of property rights. Hence, private forest owners are analysed as primarily economic entrepreneurs within the forest production system.

In order to understand the role of rent-seeking behaviour in property rights allocation, an exploratory approach to the subject will be applied answering the following research questions: What opportunities and barriers for *profit-seeking activities* do private forest owners perceive in regard to the current property rights distribution? To what extent are these opportunities and barriers translated into *entrepreneurial rent-seeking*? What opportunities and barriers for *entrepreneurial rent-seeking activities* exist *de jure* and *de facto*? However, the intention of the paper is neither to question the usefulness of the existing regulation aiming to solve social conflicts related to forest management, nor to criticise the actions of the actors with stakes in private forest governance. Instead, the main emphasis is on understanding the behavioural patterns of private forest owners operating as institutional entrepreneurs by means of rent-seeking in a real-world context.

This article is structured following a classical linear path: First, on the theoretical level, the paper expands the border of existing theories of rent-seeking towards an analytical framework integrating central concepts from rent-seeking, property rights and entrepreneurship theories. The second section introduces the methods that build the empirical foundation of the analysis. Third, the empirical findings are presented which reflect the perspective of Romanian private forest owners towards limits and opportunities of profit and rent-seeking. Finally, these findings are discussed and assessed in light of the research

approach and conclusions regarding the impact of rent-seeking on property rights allocation are drawn.

A property rights perspective on entrepreneurial rent-seeking

From a political economics perspective, property rights are analysed as systems including the rights themselves and the formal and informal institutions that create them (Weimer 1997, p. 1). Barzel (1997, p. 3–5) distinguishes between *legal property rights*, i.e. the rights recognised and partially enforced by government, and *economic property rights*, defined as the individual's ability to consume the good directly or through exchange. Formal or informal contracts between interacting parties in the marketplace are used to set economic rights, usually embedded in a broader formal institutional context provided by granted legal rights.

Neo-institutional economics explicitly relates the property rights assignment to transactional costs. Transactional costs appear in the process of conceiving, monitoring and enforcing 'the rules of the game' (North 1990, p. 3) and occur either in political or in market arenas. Where positive transaction costs evolve, property rights cannot be fully assigned, perfectly enforced or priced (Furubotn and Richter 2005, p. 71). This makes the property rights allocation part of a continuous socio-political negotiation and renegotiation process, involving "the right holder and the right regarnder under a specific authority structure" (Vatn 2005, p. 254). Accordingly, property rights theory recognises rent-seeking behaviour as occurring on the part of individuals who resist or propose changes in the property rights system in their own favour, as well as on the part of rulers, who receive substantial returns from making rules (Ostrom 2000, pp. 334–335).

Likewise, early scholars of rent-seeking literature have realised the rent-seeking potential in the creation of property rights (Buchanan 1980, p. 15). Yet, the classical interpretation of rent-seeking leads to normative conclusions: rights established through rent-seeking tend to be inefficient mainly due to non-residual claimants added in the process contributing to the growth of governments (Benson 1984).

In an alternative view, which integrates institutional economics and political economy into the conventional approach, rent-seeking is seen as a process through which the structure of rights in society can be changed (Khan and Jomo 2000). Thereby the overall effects of a rent-seeking process depend on the way inputs are allocated into rent-seeking activities which can lead to different rent-seeking outcomes. Such inputs can, for instance, be spent on lobby or other political activities as well as on negotiations between contractual parties involved in market transactions.

³ A similar conceptual positions can be found in the work of Douhan and Henrekson (2007) who provide a typology of the entrepreneurial impact on institutions.

Table 1 A typology of rent-seeking activities and their impact on property rights allocation

Activities	Aims	Type of rents	Arenas	Inputs	Outcomes
Classical rent-seeking	Defend	Monopoly rents	Political processes	Non-voting political actions (e.g. lobbying activities, group pressure, corporate networking)	Avoiding competition and limiting free market forces (allocated licences, granted monopolies or subsidies)
Entrepreneurial rent-seeking	Redistribute	Entrepreneurial rents			Maintaining, redistributing or creating property rights with regard to marketability, thus enhancing opportunities for profit-seeking
	Create			Market transactions	Private negotiations between actors

Source: own compilation

However, while inputs could narrowly focus on the creation of monopoly rights, they may also target activities sought to maintain, transfer, create or destroy legal or economic property rights (Table 1).

Entrepreneurship by means of classical rent-seeking is said to be negative, since the competition for artificially created rents “will simply dissipate rents and lead to no increase in output” (Tollison and Congleton 1995, p. xii). Nevertheless, besides their artificial creation, rents can also arise from holding control over scarce resources, either natural resources⁴ or scarce knowledge.⁵ In this context, an entrepreneurial rent is defined as a rent that rewards innovation. Such understanding draws a conceptual delineation between classical rent-seeking and entrepreneurial rent-seeking. In the case analysed, the latter refers to an allocation of resources in order to discover and pursue opportunities to influence the structure of rights on which the forest production is based.

The theory of entrepreneurship presumes that an entrepreneur seeks to create new profit opportunities through innovative activities (Dejardin 2000, p. 2). Accordingly, entrepreneurship implies that “the potential for rents provides the incentive for resource owners to seek out more efficient allocations of their resources” (Rajan 1988, p. 165). Hence, the entrepreneurial allocation of resources can be dual: (1) conventional profit-seeking activities target entrepreneurial rents resulting from an allocation of resources that introduces new goods, services, raw materials and organising methods; while (2) entrepreneurial rent-seeking activities employ resources to maintain, transfer or create the rights in support of rent-creating, productive activities (Fig. 1). Since the quest for entrepreneurial rents translates into new profit opportunities, rent-seeking and profit seeking are not opposing

activities⁶ *per se*, but interrelated as both are driven by entrepreneurial behaviour.

Defining forest ownership requires information about the specific content of rights and duties in relation to the resource. The analytical frame proposed by Schlager and Ostrom (1992, p. 250) differentiates five relevant property rights: (1) *the right to access*, meaning to enter a defined physical area and enjoy non-subtractive benefits; (2) *the withdrawal right*, as to obtain a resource unit or product of a resource system; (3) *the management right*, as to regulate internal use patterns and transform the resource; (4) *the exclusion right*, as to determine who will have access and withdrawal rights and how those rights may be transferred and (5) *the alienation right*, as the right to sell or lease management and exclusion rights. The degree of allocation of these rights depends on the value of use vs. protection exerting influence on the institutional choices that set the structure of rights (Vatn 2005, p. 136). Thus, the selection of a certain institution has implications for the marketability of a ‘good’, which is not only an inherent characteristic of a particular class of goods, but also subject to human definition (Loasby 2000, p. 305). Considerable differences in the national forest legislation as well as the diversity of local conditions have an impact on the marketability of some goods and services (Bouriaud and Schmithüsen 2005, p. 299); or in other words, the institutional specification of rights is what makes the attributed rights exclusive or not. The structure of rights creates novel excludability opportunities for forest owners in relation to different kinds and, to some extent, irrespective of the very nature of goods (public, common, club or private).

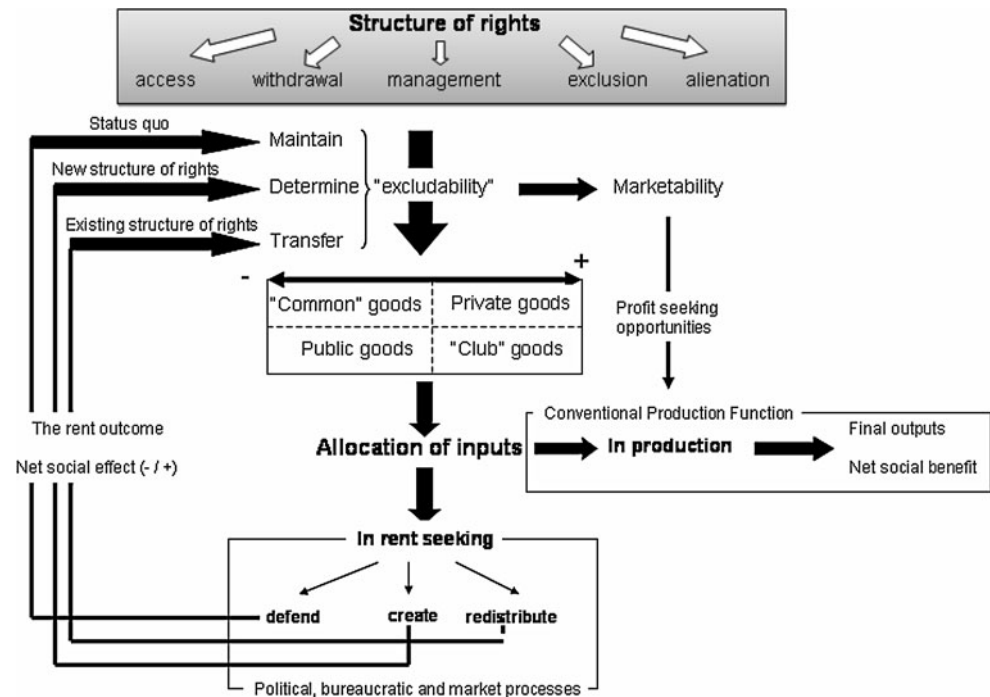
The basic assumption of the entrepreneurial approach to rent-seeking claims that the more forest owners have difficulties in surviving in existing markets, especially due to limited property rights, the more they are prone to invest in

⁴ The ‘payment for ecosystem services’ schemes offers examples on how people can efficiently capture environmental rents.

⁵ ‘Rents for learning’ and ‘rents rewarding good management’ are examples for such information scarcity (Khan and Jomo 2000).

⁶ Buchanan (1980, p. 3) considers ‘rent-seeking’ and ‘profit-seeking’ as contradictory activities based on the traditional welfare analysis of rent-seeking.

Fig. 1 The interface of profit seeking and rent-seeking processes in natural resource management (adapted from Khan and Jomo 2000)



the respective rent-seeking activities (Baur 2001, p. 127). In the case of natural resources, the rent-seeking outcome, dependent on the allocation of inputs, is categorised as follows:

- 1) The reproduction of the current structure of rights (keeping the *status quo*) is characterised as *defensive rent-seeking activity* (Gunning 2003, p. 349). In this case, the production function remains the same, since it is based on existing rights towards the resource. However, the rent awarded equals the avoided harm induced by other people's rent-seeking actions. Examples are political efforts spent by private forest enterprises to defend the current structure of rights against possible demands for forest conservation.
- 2) The transfer of an existing structure of property rights and the rents associated with it, from one interest group to another, is described as *redistributive rent-seeking activities* (Gunning 2003, p. 347). However, a redistribution of rights does not change the overall production function as the marketability of the goods and services involved in production remains the same. Consider hunting activities taking place in private forest land in the Romanian case as an example. *De jure*, landowners have no excludability rights towards hunting activities. Nevertheless, hunting activities are excludable services and, thus, marketable. The right to provide hunting services belongs to Game Management Units (GMUs) who pay a tax to the owner in compensation. In this context, redistributing rights towards hunting activities means to allow landlords

and not GMUs to decide who has the right to hunt on their property and at what price.

- 3) The establishment of new rights in relation to a resource defines *creative rent-seeking activities*. The entrepreneurial rent is assured by changing the existing structure of property rights such as to gain excludability opportunities in the use of a specific good and, thus, to make it marketable. For example, landowners try to avoid the provision of uncompensated forest-based environmental services by transferring rights from the general public to themselves. Such rent-seeking activities, in addition, create marketability for environmental services, as forest owners get the right to impede free-riding. In this respect, creative rent-seeking is significantly distinctive from redistributive rent-seeking, since it creates new markets. In comparison, the latter simply re-defines right-holders within already established markets.

All of the previously mentioned rent-seeking actions pertain, to varying extents, to innovation as they pre-suppose an ability to perceive the rents and the means for their appropriation. Even in a defensive rent-seeking action, the leverage points at which inputs are allocated in order to maintain the 'status quo' have to be discovered or anticipated first. Nevertheless, creative rent-seeking clearly bears a higher innovative potential, since it involves concurrently discovering excludability opportunities and innovatively allocating inputs. From a dynamic perspective, any of these rent-seeking outcomes are just the starting point for a new round of activities due to the fact that an existing structure

of rights is under continuous negotiation and renegotiation within rent-seeking processes (Milward and Schlager 2000).

Research methods

The research is designed as an explorative analysis and an empirically based hypothesis creation, in the form of a case study. It is explorative in the sense that it assesses owners' subjective experiences and the meanings they attach to those experiences (Schutt 2006, p. 14). These findings construct hypotheses regarding the role of entrepreneurial rent-seeking activities in the institutional setting of property rights. As it is an exploration of activities, perceptions and relevant actors, reconstructed in the light of the introduced conceptual frame, socio-empirical qualitative methods are employed (Devine 2004, p. 199). By using a case study, as a data collection method, the research area is reduced to the level of two administrative units (Bistrita-Nasaud Department and Suceava Department), selected in order to reflect the diverse setting of private forest ownership in Romania. The study areas are comparable in terms of the important role played by forests in the local economy, though they are characterised by relevant differences in the state vs. private ownership ratio.

The primary data collection was based on face-to-face interviews with open-ended questions, structured on three levels of analysis, namely the perception of owners regarding profit-seeking activities, their prospects of rent-seeking activities and the actions taken in this respect.⁷ Based on secondary data analysis, deductive categories supporting some questions have been introduced to interviewees for comments. Studies dealing with qualitative research assert that, when seeking to elicit an inventory of the concepts of populations, a diverse sampling of 20–30 individuals can be sufficient (Morgan et al. 2002, p. 77). The sampling criteria took a purposeful interview approach based on a snowball selection of owners. Giving the rationale of the entrepreneurial rent-seeking, the purposeful sampling selected forest owners who could be qualified as actively involved in political, bureaucratic and market processes. Most relevant in this respect appeared to be the professional backgrounds of the interviewees (e.g. two are actively involved in politics; two are leaders of private forest associations, three forest owners are administrators of wood-processing companies, four work in private or

state forest units). Diverse age categories of interviewees were considered, as this is an important element when analysing behaviours that can be influenced by past experiences related to forest nationalisation, communist mentalities and new European values. Similarly, diverse educational levels have been integrated into the sampling, since access to information appears important for perceiving entrepreneurial opportunities. As a result, 25 forest owners were approached during August 2007, 22 accepted the discussion, and 19 gave a complete taped interview.

Data analysis follows the steps of data reduction, data display and conclusion drawing and verification (Miles and Huberman 1994, p. 10). First, the interview transcripts have been introduced into a Microsoft Office Excel worksheet, created with the purpose of facilitating data categorisation. In the next step, statements have been intuitively assigned to categories and subcategories, based on the inductive categorisation method proposed by Mayring (2000, p. 3) for qualitative content analysis. The inductive categories appear when analysing each statement in the light of the conceptual framework. Additionally, the deductive categories employed in designing the interview protocol resulted in categories from data analysis. Next, statements belonging to the same categories and subcategories were clustered and displayed in table list data (when at least one interviewee expressed an opinion) or in matrix like data (when all interviewees presented opinions).

Given the goal of the research, the resulting categories reflect the viewpoints of forest owners. Thus, the statements presented must be interpreted as an exploration of the reality and not automatically as facts. Data triangulation relies on secondary analysis. Thus, in the presentation of the research results, owners' *de facto* perceptions juxtapose the *de jure* provisions. Furthermore, the identified perceptions are discussed within the frame of relevant empirical findings from other authors. The categories referring to the perceived barriers to profit seeking are presented in light of the five acknowledged property rights: access, withdrawal, management, exclusion and alienation. The perceived exclusion opportunities are a consequence of the profit-seeking barriers and thus are introduced in parallel. The presentation of the research results is highly descriptive to provide a detailed insight into owners' understanding of reality.

Profit-seeking barriers and consequent opportunities for excludability

A first inductive category appearing in the analysis refers to the way in which a forest owner perceives his⁸ ownership

⁷ The challenge of the research was to introduce the term entrepreneurial rent-seeking to interviewees; in this respect direct ice-breaking questions were used for clarifying the research objectives: How do you perceive your ownership status? What opportunities and barriers do you see arising from your rights and duties? What can be done to change the current situation?

⁸ In the snowball sampling only men have been recommended to be interviewed.

status. The majority of owners find their rights restricted and describe themselves as “remote owners” (3.20)⁹ or an “owner for duties, not benefits” (15.12). It is considered that “the private forest owners are facing more barriers than advantages” (4.13) and that “the avalanche of obligations is higher than the state had before” (7.03). In contrast, one interviewee considers that his rights are in line with the forestry regime that he “understands and trusts” (5.09). Without claiming that this is a particular case for Romania, the interviewees perceive the actors who influence their ownership status as objects of excludability. In sum, the identified stakeholders are (1) the state, mainly the actors designing forest policies and the agencies implementing them; (2) the civil society as a whole or partially (e.g. communities) and (3) direct beneficiaries, either groups or individuals.

Excludability defending access rights

Although the access right is not restricted by law, Romanian forest landlords can face contractual limitations regarding the right of entry into their own forest, as confronted by two interviewees (12.01; 13.05). The reason behind such constraints is a consequence of owners’ obligation to have a guard contract against timber robbers. The contractor of the service, either a state forest unit or a private one, can set such limitations to prevent the over-harvesting of forests.

“In the current legislative situation, we are owners and we aren’t; of course we have the right to sell it and we have the rights to harvest, under their [forest inspectorate] control... how and when, don’t ask me! In the initial contract with Romsilva [national forest administration] I had no right to enter into the forest without them...and I had the property’s title in my hand...trust me, it was like this in the contract!” (12.01)

This statement provides an example of the difference between legal property rights (i.e. the forest law imposes a guard contract but does not restrict the access) and economic property rights (the contractor has set access limitations). Hence, this narrative offers an example of how defensive rent-seeking has influenced the access right through contractual negotiations.

Some interviewees admit the existence of many owners who illegally harvested their forest, driven either by poverty or by the intention to ‘get rich as soon as possible’ (6.06; 7.21; 13.16; 16.06). A landlord, who clear-cut 30 ha

of forests in one night, pretending that he was robbed, is invoked in this context, since his case has been largely presented in the media (7.21; 13.35). Yet, six interviewees want to exclude the state from imposing the mandatory guard of their forests. It is considered that this compromises their ownership status (10.05; 12.01; 13.05), involves costs (14.02) or is done inefficiently (7.22; 11.11; 12.02).

Excludability creating additional withdrawal rights

De jure, forest owners face assignment problems as to when and in which way they are allowed to harvest as well as appropriation limitations as to how much they are allowed to consume. These limitations are a consequence of the role assumed by the state in assuring the societal provisioning of forest-dependent environmental services.

In the use of forestland, appropriation limitations forbid land use change and oblige owners to reforest at their own costs. These obligations are generally not regarded as direct barriers to profit-seeking activities. *De jure*, exchanges between land utilisations are possible to a certain extent; however, the associated costs are considered prohibitive (2.22; 6.11; 9.10; 13.18). Two owners perceive that the society free rides the benefits from maintaining the forest land use and request a subsidy system supplementing the respective opportunity cost (11.16, 17.11). Similarly, four owners see an opportunity to include the state in bearing the costs of reforestation (i.e. by means of compensations) either because technical solutions are imposed (11.21) or in cases where artificial regeneration after natural catastrophes is required (1.01; 3.12; 16.08).

The identified barriers in the use of wood products refer to the point at which harvesting can take place and the quota availability. The majority of owners consider that the high harvesting age corresponds with the reduced quality of wood products (1.13; 3.09; 4.19; 6.14; 8.05; 9.06; 10.05; 11.13; 15.23; 16.10; 17.16; 18.12; 19.14). This restriction is presented as “illogical” compared with other forms of land utilisations, being like “owning an apple orchard and being forced to harvest the apples in February” (11.13). Additionally, six owners consider that having long production cycles (e.g. 100–120 years for Norway spruce, 130–160 years for beech) affects the market competition, since they believe that “in Germany, forests are harvested twice while we harvest once, in the same amount of time... and the wood quality is better” (1.13). The reason for this has been identified as outdated norms in forest planning which were designed in the communist period when the state had different management goals. Adapting the norms to the reality of private forestry is perceived as an opportunity to increase the profit. Further assumed advantages rely on the possibility to sell better quality timber, to follow market incentives and to make use of niche products.

⁹ The statements are presented using a coding system in which the digits before the dot define the interviewee and the digits after the dot represent the line in the interview transcript.

De jure, the harvesting quota is set as a result of the attempt to normalise the forest production stock following the sustainable-yield principle. *De facto*, there is a misperception of its role. In the understanding of the majority of interviewees, quota restriction represents a means to place governmental forest agencies in an authoritarian position. It is alleged that state forest units manage the quota according to their interest (9.13), this restriction having roots in the communist period when everything was rationed (14.10). The ultimate solution to the problem is “to steal or to pray for storms” (10.19). From owners’ perspective, quota restriction creates absurd situations as it stipulates use restriction for self consuming wood products (e.g. in a carpentry plant (12.17), for building a house (11.47; 14.10) or for firewood (17.03)).

“My forest has 2 ha, and the harvesting quota for sanitation cuttings is 5 m³/ha annually. [...] but in mountain areas I need 15 m³ each winter. I go to the forest unit and ask them to sell me 5 m³ more. <Well, we cannot because you have forest and our firewood quota is for those in the community who don’t own forests >, is the answer. So, I’m an owner, but I have to buy wood from economic agents or other owners, if I want to respect the rules!” (17.03)

Therefore, half of those feeling affected want to exclude ‘the state’ from deciding the amount of timber to be harvested, especially since “for fifteen years the state has been taking the rent of private forests” (15.02). Other owners react by expressing the need for a higher quota (3.08; 9.13) or a return to the time when owners were allowed to cut the equivalent of the annual increment regardless the national quota availability (10.03).

Without attempting to discuss the socio-ecological benefit resulting from the withdrawal restrictions presented, it should be mentioned that many of the identified excludability opportunities offer patterns of possible creative rent-seeking activities. For example, excluding societal free-riding (e.g. resulting from keeping the land use, from maintaining long lasting forests) can create markets rewarding those owners who behave in a responsible way (e.g. markets for compensatory schemes, markets for certified wood products).

Excludability transferring management rights

The management of Romanian forest resources is set up and adopted in a mandatory process of forest management planning (FMP). The owners’ perspectives regarding obligations to comply with FMP are evenly divided between those considering the expertise of specialists as indispensable (3.07; 5.08; 6.21; 7.16; 8.35; 12.02; 13.11; 15.07; 18.06; 19.10) and those willing to exclude the

technical experts completely (1.08; 2.23; 4.30; 9.09; 10.16; 11.60; 14.28; 16.10, 17.20). People from the first category still want to be included in the FMP process and to decide upon the management goals. Thus, they favour the simplified forest management plans, designed at landowners’ level, which previously applied in small-scale forestry. People from the second category consider that they can manage the forest by themselves using well-implemented social customs which applied to forests before their nationalisation. Some owners consider management plans as ineffective, since the need to extract timber resulting from storm injuries often postpones scheduled silvicultural works:

“There is a saying with a basket of apples that you keep it in the larder for the winter. Each morning you go and check which apple started to be putrid, you peel it and you eat it. At the end of the winter you finished the whole basket without even eating a single good apple. It’s the same with us; we are obliged to go behind natural disasters or to harvest only rotten products, which directly affects my profit.” (11.20)

Translated into opportunities for profit seeking, it is alleged that giving management rights to forest owners opens the possibility to establish management goals according to the existing and forecasted market demands (11.33; 17.08). Forests for bio-fuel or firewood production (11.44), silvicultural practices allowing berry production (2.18; 17.15), poplar plantations for pulp production (13.31), shortest cycles for wood production (17.08), a higher intensity in commercial thinning (2.04), the implementation of the coppice system (11.49), and agro-forestry practices (2.04) are mentioned as opportunities a forest landlord can take if existing technical requirements in forest management planning are excluded. Additionally, clear management rights are perceived as providing incentives for resource preservation, since “the management will be as for your own” (10.16).

In conclusion, the transfer of management rights could evolve in two directions. Owners can look for a redistribution of the right from the state to themselves if they commit to adhere to the same management rules. Yet, if they look for a transfer of the management rights irrespective to the existing technical provisions, forest owners aim to capture rents creatively. Most of the management goals identified by the interviewees can be placed in the second category.

De jure, the administration of private forest must be conducted by state or private forest units. A forest size restriction for establishing a private administrative unit applies. Some interviewees perceive that obtaining administrative rights towards their forest is beneficial as they can administrate these more effectively while saving

on the associated costs (2.23; 4.09, 6.22; 7.07; 10.12; 12.02; 14.26; 16.14, 17.22).

“I would like to be able to take decisions by myself, even though they could be wrong. But I think that forest agents will never have either the time or the will to bring the forest to its optimal utilisation. Theoretically, they can oblige me to cut, even if I don’t want to!” (17.22)

Private units for forest administration are favoured over state ones (1.30; 2.09; 7.30; 9.18; 10.24). It is assumed that, given the dependency on owners’ revenues, private foresters are more sensitive to owners’ requirements, the bureaucratic steps are reduced, and quota distribution is more transparent. However, the small size of existing private properties and the delay in forest restitution are impediments for their establishment (1.30; 8.29; 11.43).

“What is hopeless for me is that if you don’t have 3000 ha, and I have only 1000 ha, you are not allowed to administer the forest, to guard it, to organise it for hunting. [...] Their argument is that it’s not efficient to administer a forest with a size less than 3000 ha... well, they should let us to ruin” (12.02)

Excludability creating exclusion rights

According to the legislative framework, the right to exclude the extraction of wood products is transferred to administrative forest units, on a mandatory contractual basis regulating the guard of the resource. The legislation has no particular provisions regarding public access to forests. If the exclusion rights for the wood products are clear, the existence of guard contract did not clarify exclusion rights towards public access in forests and towards the right to harvest non-wood forest products (NWFP). Consequently, *de facto* the perception of one’s exclusion rights takes various forms in this direction. Two owners believe that “whoever wants to collect mushrooms has to ask first” (2.11). Three owners consider that excluding the public collection of NWFP is unfeasible, despite the fact that they are unhappy with the situation (4.08, 6.08; 11.18). As a practical way to forbid public access, one interviewee has fenced his forest (14.19). Seven owners do not feel disturbed by people collecting NWFP from their forests, since they do not perceive these products as possible sources of revenue. One owner explicitly declares that he wants exclusion rights for those entering into his forest even though the comparison he uses is not a true reflection of what owners in the USA do in practice to recreationists entering their forests. Yet, it offers an example of the motivations that can drive an owner to seek the creation of rents.

“I’m very much affected, they enter my property light fires for barbeques, leave garbage at the place; in America you are allowed to take the gun and shoot them. Here, if I hurt someone, I go to jail. That’s why everybody steals from you... the private property is not protected by law.” (13.23)

As explained in the theoretical section in reference to redistributive rent-seeking, Romanian forest owners have no right to exclude hunting activities taking place in their forests. Opinions on this issue are more convergent, the majority of interviewed owners saying that they should have the right to exclude hunters from the use of the resource (2.11; 4.08; 7.09; 9.18; 10.07; 11.07; 12.05; 13.09; 15.22; 17.14). Thus far, only two owners have identified strategies for making use of such a possibility, based on renting the forest for recreational hunting activities (11.07, 12.05).

Excludability facilitating alienation rights

Forest owners do not perceive imposed regulation regarding alienation of forest lands, even though, *de jure*, the state has a ‘first refusal’ right. The perceived limitations are instead related to the low value of the forest on the market, considered to be a reflection of the existing barriers to the use of the resource (4.18; 6.04; 7.05; 11.24; 12.02; 13.04).

“There are many citizens who would like to sell the forest; they are in trouble having different problem...they don’t know to whom to give it. Since you can’t do simplified management plans anymore, what can I do with it? Look at it?... If I don’t have permission to harvest! There are brave ones who buy and cut everything; but they are fewer and fewer. Those who have money and time to wait until maybe the situation will change, can bargain... and they offer little money... ‘Do you want to give it? If not, stay with it like this!’” (4.19)

Only one owner, a forest engineer, has identified the hypothetical possibility of returning the rights to the state in exchange for an annual compensation (11.37). When asked to comment on the possibility of accepting compensatory schemes, targeting the full conservation of their forests, owners’ express evenly divided opinions. Those favouring compensations put conditions on the value of the financial support and the resulting structure of rights (1.24; 4.21; 3.17; 7.24; 8.24; 12.19; 13.32; 17.24). Those rejecting the idea of compensations reason with the fact that the forest has to be a source of income by means of wood products (5.18; 9.15; 10.18; 14.18; 15.31; 16.61) or the fact that such a financial scheme is nothing else than a strategy to take back their forest (2.25; 6.01; 14.18).

Excluding bureaucracy

De jure, the state forest administration requires that owners proceed through several bureaucratic steps needed to get harvesting permits, transportation and selling documents for wood products. The quasi-majority of forest owners blame the excessively long “chain of requirements” (11.10), which involves forest administrative units, the departmental forest inspectorate and, in special cases, the National Park Administration (8.06). At each step, you are required to “go and beg them, make petitions, re-petitions, stamping, re-stamping, de-stamping” (14.01). The time frame for paper works is estimated at between 2–3 months and not “30 days as stated in the norms” (4.12), but “you can even break a pair of shoes still not being successful and instead tempted to give up” (14.06). Thus, it is perceived that state administration limits twofold the legal profit an owner can receive. First, it increases the cost of production, due to money flows going towards required payments for official procedures. Second, it creates a tendency to sell the wood at a lower price before providing harvesting permits to ‘facilitators’ that have leverage points to legally (17.28) or illegally (11.14) obtain the permits. In contrast, two forest owners claim that they do not face bureaucratic problems, with forest agents acting as quickly as possible and (3.19) the “few barriers” being due to legislative requirements (5.21). The general perception is that partially excluding the forest administration from the process in the form of “one time, one institution” (8.06) would save their time and money. Additionally, one owner wants full exclusion rights in cases where forest products are self consumed (14.10).

Excluding autocracy and corruption

What may be a characteristic of post-communist countries is the perceived authoritarian attitude of forest agents. The fact that the emphasis is placed mainly on control activities rather than in transferring expertise (15.15), with the use of threats rather than explanations (4.22), makes everybody dissatisfied. Many owners consider that forest agents have this arrogant position due to persistent communist mentalities, acting as “a routine” for state representatives (12.10). It is alleged that state forest agents “still consider themselves as private forest owners” (11.38), behaving in a way that is reminiscent of the time of communist Agricultural Production Cooperatives (13.28). Thus, the social status of the owner appears decisive in determining whether they are treated as an “equal partner” (4.22). Furthermore, ten forest owners (2.32; 4.04; 6.03; 7.22; 9.11; 10.14; 11.13; 12.14; 13.15; 17.25) consider that with

“stimulations”, the time frame for approvals and the capacity to control can decrease significantly (11.13).

“These forest agents, instead of having the role of capacity building and monitoring, they have the role of controlling and plundering; like someone told me: in the morning one is coming to ask for money and in the afternoon another is coming to give you a fine. So, please take a decision! Should I either pay the bribe or the fine?” (13.14)

Obviously such accusations must be treated with caution as they are, to a large extent, not supported by empirical evidence of corruption in Romanian forestry.

Forest owners’ entrepreneurial rent-seeking

Rent-seeking practices

Successful examples of entrepreneurial rent-seeking activities, as defined in the framework of this research, seem rather limited. Nevertheless, seven owners stated that they made various attempts to change their ownership ‘status quo’ (4.24; 7.27; 8.18; 9.16; 10.21; 11.40; 12.23). There are five main instruments for rent-seeking activities, used by the forest owners interviewed: a) lawsuit, b) official complaints, c) political lobby d) pressure groups and e) contractual negotiations. Lawsuits are generally intended to preserve existing legal rights and are therefore more defensive in character (e.g. one owner successfully contested the value of the imposed estimation for reforestation). Yet, when challenging existing regulations as being contradictory to constitutional rights, lawsuits can be an entrepreneurial rent-seeking tool, as occurred in the case of one interviewee (i.e. having his rights as heir recognised despite a lack of provisions for his particular case in the restitution law). Four owners addressed official petitions at the Ministerial level which targeted the transfer of harvesting quotas and management rights. Two owners stated that they had contacted politicians to explain to them that “the laws are totally wrong and made with the purpose of allowing the forest administration to be in a monopoly position” (12.23). Attempts were unsuccessful, promises being made but not followed through on (8.28). One owner stated that he was actively involved in the creation of an association, including forest, pasture and agricultural land with the intention of forming a powerful pressure group (i.e. by means of boycotting the price of milk as a starting strategy) (9.16). To date, this attempt has failed as most people refused the idea. Contractual negotiations successfully applied in the presented case of the two owners facing access restrictions into their own forest.

Limitations on rent-seeking activities

The few responses to a large number of identified problems are a consequence of three main categories of perceived limitations to entrepreneurial rent-seeking behaviours: a) deficiencies in the political system, b) societal mentalities and c) lack of owners' association in lobby groups

The perceived barriers for political lobby are related to (1) the failures of politicians to solve owners' demands, (2) the political instability, (3) the lack of political involvement and (4) the lack of public consultations, when designing forest policies. According to six interviewees, the political class is incapable of making changes mainly because politicians are not trustful partners since "after reaching a Parliamentary position, they start doing as much as they can... for their own" (1.20), forgetting "the promises they made" (2.30; 14.22; 16.19), or responding to over-harvesting of forests only with command and control instruments (12.15, 17.29). It is asserted that the lobby activities are influenced by political instability; people seeing repeated changes occurring at the Governmental level perceive that their request will be neglected (6.25). Other interviewees mention that "there is nobody to talk with" (1.29), owners feeling the need "to speak with someone" about their future status (4.26; 13.12; 10.09). Two of the owners approached are actively involved in politics. The first considers the main barrier to his political actions as the lack of public consultations when forest policies are designed, which restricts owners to commenting on their obligations and duties (7.18). The latter confesses that his involvement in politics is not particularly helpful in respect to the problems he faces as a forest owner since "at one point, as a politician you learn to shut up because soon the situations can turn against you" (13.34).

Several types of social mentalities affecting forest owners' rent-seeking behaviour have been identified in the analysis: (1) the way forest owners perceive themselves in the balance of lobby, (2) the important role of the state in owners' view or iii) the way foresters perceive private forestry. Some forest owners believe that they have no potential to make changes in the regulatory framework, since "they are too small" (1.31) or "without chances" (8.30). Statements like, "if the law is like this we have to respect it" (8.01), since "everybody knows that it is like this and that nothing can be done" (3.24) or that "if you behave, obligatory it will be better" (14.21) are examples of mentalities rooted in the communist period "when everybody was educated that the state is always right" (11.61). Furthermore, some owners consider that forest experts "don't have the ears formed in order to listen to owners' problems" (11.61) and thus "no one even assessed what can happen if full rights are granted" (17.23). One

owner considered that this attitude is transferred in the way forest strategies are created since "those in the position to take decisions, being there from the communist period, want to maintain the system they have created, which was good but no longer appropriate" (17.35).

Associations of forest owners created to represent their interests in the form of lobby organisation are limited. In the interviewees' understanding, "forest associations" refers chiefly to the creation of the required size in FMP. The main identified reason for building an association of common interest is related to the inefficiency of the existing ones. The vice-president of a forest association says that nobody is listening to their problems (10.10), whilst members act defensively when protests or boycotts are proposed (9.17). Furthermore, the existing associations are blamed for representing solely the interest of leaders at the expense of all the members (7.28; 11.50; 14.23; 17.33). The fear of alliance is also rooted in the perception that "association" is a comeback to the communist period when people were forced to put their lands in an Agricultural Production Cooperative (8.31; 9.16; 11.50). In some cases, the rent-seeking potential of owners' unions is not even perceived (1.30; 3.23; 5.22)

"I don't see any advantages. I understand their role if you own livestock or agricultural land. You make an association to sell your products better, to get some subsidies or for similar advantages... but in forestry, what can their role be?" (14.23)

Opportunities for rent-seeking

The range of perceived excludability opportunities shows that the majority of interviewees perceive the changes in the property rights that would enable them to capture entrepreneurial rents. Yet, the predominant impression resulting from the field studies is that they lack strategies on how to accomplish the changes. In general, the forest owners interviewed are aware of the fact that a change in their structure of rights is possible by adjusting the existing regulatory framework. Two main legitimate non-voting opportunities for changes have been identified in the analysis: 1) the political lobby avenue and 2) the use of national and European legal courts for claiming constitutional rights. Identified lobby activities refer to an active participation in public consultations, the creation of forest unions as lobby organisations and the use of mass-media as a pressure tool. Yet, it is perceived that in order for these opportunities to be successful, they are reliant on the EU's support for private ownership and the willingness of the state to create an institutional framework favouring their application.

Discussions and concluding hypotheses

This research revealed further empirical evidence regarding how the definition of property rights determines the efficiency of the economic process from the perspective of a particular actor, the forest owner. The findings of the Romanian case are not necessarily unique. Those foresters fighting for strong regulation everywhere in the world might be familiar with many of the arguments presented, which are part of the ongoing political game.

Hence, the paper introduces a conceptual framework which makes the distinction between rents awarding entrepreneurship in conventional production functions (e.g. introducing new management goals in the forest production system) and rents awarding entrepreneurship in the institutional setting of property rights (e.g. transferring or creating management rights which permit the owner to set management goals). In the Romanian case, relevant *de jure* restrictions on withdrawal, management and exclusion rights affect the marketability of some goods and services. Private forest owners, as established market actors, attempt to change the ‘rules of the game’ in their favour as a result of institutional entrepreneurship practices. Thus, institutional entrepreneurship by means of rent-seeking has an impact on the creation and the evolution of forestry markets.

This conceptual distinction allows the examination of the causal relationship between the ability to perceive entrepreneurial rents and the capacity to pursue opportunities and to overcome barriers to their appropriation. Despite the restricted generalisation inherent in the explorative nature of the research, the empirical analysis has resulted in the identification of two main research hypotheses.

As Weimer notes, post-socialist economies tend to have “less clear allocations of use rights”, “high costs of alienation rights”, resulting from government policies like use restrictions, “weak formal and informal institutional support for right security” and “high uncertainty about the persistence of property rights” (1997, p. 4–9). These characteristics are also present in perceptions identified by forest owners interviewed. One side of the argument may be that these peculiarities are a result of the state attempt to preserve the integrity of national forest patrimony at the costs of owner’s profit. Nevertheless, the unclear legislative framework, especially when implementing the first two restitution laws made owners feel insecure in regard to their property rights. Deforestation in private forestry has been further used as a powerful argument in forest politics, for enhancing the authoritarian position of the governmental forest agencies. The resultant administrative structure is perceived as creating bureaucratic hurdles at various levels. Interviewees argued that these hurdles are often associated with corruption and the creation of black markets for timber. Thus, the success of the forest privatisation process appears dependent on

regulatory changes adapted to the reality of private forestry. This discussion leads to the hypothesis that the institutional context characterising private forestry in Romania offers relevant direction for changes in the property rights system that can act as opportunities for the (private owner) rent-seeking entrepreneur.

Nevertheless, the causal relationship between the institutional context and entrepreneurship is bilateral, since “entrepreneurs always respond to incentives embedded in the environment in which they act” (Douhan and Henrekson 2007, p. 22). According to most of the interviewees, the state preserves an institutional framework which is to the detriment of the rent-seeking activities of the current private (small-scale) owners. The identified excludability opportunities leading to profit enhancement appear constrained by the rent-seeking conducted by other actors. Lobbying power is perceived as being dominated by the National Forest Administration, which is willing to maintain its monopolistic rents, as well as by large economic agents, which are interested in buying forestlands at a low price. The state could therefore eliminate small-scale forestry through market transactions. Six interviewees adhere to this scenario. Yet, it should not be neglected that forest owners are insufficiently organised in lobby structures, embedded in their inefficiency, expressing the fear of association or misperceiving their role. The resulting hypothesis is that the institutional context dependency fundamentally determines the distribution across the rent-seeking activities of those with a stake in private forest governance.

Testing this hypothesis, at the macro level, creates a basis for understanding the role of entrepreneurial rent-seeking in the governance of institutional competition. Thus, a governance dilemma deserves research attention. A strong state can use its authority to establish a property rights system, characterised by clarity of allocation, low cost of alienation and security from trespass. Yet, a state may also be strong enough to allow the revision of rules to enhance social welfare, thus creating rent-seeking opportunities for various actors and affecting the credibility of right persistence (Weimer 1997).

In conclusion, the role of economists and political scientists might be to assist the creation of constitutional rules, which help to increase the likelihood of creative rent-seeking in order to keep a “fair” competitive process open for reorganising and recombining the property rights systems, adapting it to new opportunities and new preferences of society as a whole etc.

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